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EQC Notes

The new phone system for state offices is now in place. The new number for the EQC office is 444-3742.

The individual numbers for EQC staff are:

Deborah Schmidt, Director	444-3742
Howard Johnson, Environmental Scientist	444-5367
John Carter, Researcher/Staff Attorney	444-5366
Hugh Zackheim, Assoc. Resource Scientist	444-3957
Ellen Engstedt, Admin. Assistant	444-3742
Nina Furlong, Secretary	444-3956

The long-awaited move of EQC offices during the Capitol renovation has been delayed by recent changes in the renovation schedule. EQC will (in all likelihood) remain in its present location until the next legislative session. Our office is on the fourth floor of the Capitol, Room 432, behind the House gallery.

Our thanks to two careful readers of EQComments who called to let us know that the "November 1983" issue was incorrectly labelled "Volume 2, Number 1." The correct numbers should have been "Volume 2, Number 2."

Finally, a reminder to let us know if you want to receive our free biweekly PFR-EIS listing, the best compilation of current environmental reviews in Montana. Write EQC, Capitol Station, Helena, MT 59620 or call 406/444-3742.

EQC Meeting

The Environmental Quality Council met Friday, December 16, during the recent special legislative session. The council received briefings from Dr. John Drynan, Director of the Department of Health and Environmental Sciences, and Steve Pilcher, Department of Health and Environmental Sciences Water Quality Bureau Chief, on two issues of major concern to the EQC: subdivision review and modification of Champion International's permit to discharge waste into the Clark Fork River.

Following up on its long-standing interest in the quality of subdivision review under the state Sanitation in Subdivisions Act, the EQC heard a presentation by Dr. Drynan on the financial status of the DHES's review program. During the December special session, the Legislature approved an extension of a general fund loan to the department to help fund state and local review of the water, sewage, and solid waste needs resulting from those developments. Developers pay lot fees to cover this review but the state loan supplements this revenue to provide stable funding for the office. However, Dr. Drynan and several EQC members believe this extension is only a temporary solution to provide for an ongoing program. They seek to ensure the program's financial security and substantive quality.

Several EQC members closely questioned Dr. Drynan and Mr. Pilcher about the adequacy of the department's review of cumulative impacts from subdivisions in such high-growth areas as Flathead, Ravalli, Lewis and Clark, Gallatin, and Yellowstone counties. The director argued that the law may not meet the needs of citizens of these areas, and that the DHES has no funding to address these impacts in many cases. The council directed its staff to contact the federal Environmental Protection Agency to seek expansion of federal fund guidelines to cover the mitigation of these cumulative impacts. The council also asked the staff to investigate legislative options for increasing the stability of the subdivision program and providing for review and mitigation of cumulative impacts. The council discussed the need for monitoring of subdivisions to ensure that standards are being met.

The council reviewed the Champion Montana Pollutant Discharge Elimination System (MPDES) permit revision, particularly the adequacy of the monitoring of pollution resulting from increased discharges. The EQC directed the staff to continue reviewing the situation and researching possible legislation that would require those discharging waste into state waters to pay for adequate independent monitoring.

Because of conflicts with special session activities, the EQC was unable to complete its agenda and will continue its discussions at its next meeting on Friday, February 3, at 9:00 a.m., in Room 104 of the Capitol. The council will review the environmental programs administered by the Department of State Lands, receive a report on potential environmental impacts of the BPA - WAPA agreement for power sales, and discuss increased hydroelectric development on Montana's streams.

EQC subcommittees will also meet February 2 and 3. The Subcommittee on Toxic Substances, chaired by Rep. Lory, will meet Thursday evening, February 2 at 7:00 p.m. in Room 436 to discuss pesticide management issues. The Natural Resources Oversight Subcommittee, chaired by Rep. Brown, will meet Friday, February 3, at 3:00 p.m. or upon adjournment of the full EQC meeting, in Room 436 to discuss use of Resource Indemnity Trust funds and recent developments in the implementation of the Hard-Rock Mining Impact Act. The Water Oversight Subcommittee, chaired by Senator Eck, will meet Thursday, February 2, in Room 436 at 3:00 p.m.

For further details, contact the EQC.

Pipeline Suit May Interpret MEPA

Helena has been the site for pre-trial arguments in a court dispute that may have important implications for the Montana Environmental Policy Act (MEPA). The fight is over constructing the Montana Power Company's 200-mile natural gas pipeline project from Cut Bank to Warm Springs. The new pipeline will replace a 50-year-old existing pipeline, but it will not duplicate the existing right-of-way. Construction began in the summer of 1983.

The plaintiffs in the case -- the Montana Environmental Information Center and Local 254 of the Laborer's International Union of North America -- claim that several state agencies approved the project without assessing its possible environmental damage, as required by MEPA. The permits issued involved water quality, water use, streambeds, and access across state-owned land and highways.

State agencies commonly use a preliminary environmental review (PER) to investigate if a state action has the potential of "...significantly affecting the quality of the human environment...." (MEPA). If the PER predicts little or no environmental impacts, agencies have generally satisfied MEPA. In this pipeline case, however, none of the agencies prepared a PER.

The case raises several intriguing questions about MEPA that might be resolved in the judge's ruling.

... Should the agencies have done a PER for the MPC pipeline?

... How should an agency determine whether or not a state action is likely to significantly affect the environment, thus triggering an environmental review?

... How should agencies handle a project that might have significant impact, but where the action required by any one state agency will involve little impact?

... Who has standing to sue for protection against a violation of MEPA? Does a labor union have standing?

... What remedies are available to redress an injury caused by a violation of MEPA? Can these remedies redress past wrongs and existing wrongs, or can they only prevent further damage?

The pipeline case may answer some or all of these questions, or District Judge Joseph Gary of Bozeman may decide the case on a different point of law. The EQC will continue to monitor this and other developments in the implementation of MEPA.

Power Plan Meetings

The Montana Northwest Power Planning Council is assisting the Legislative Interim Power Plan Study Committee in its review of the implementation of the Northwest Conservation and Electric Power Plan in Montana. During the next few months, the committee will conduct a series of public meetings throughout the state focusing on two key elements of the plan: model conservation standards and resource options.

The committee met January 18-19 in Great Falls to consider the plan's model standards for energy efficiency in new homes and commercial buildings. The agenda included a review of the energy provisions of Montana's existing building code, an explanation of the economic and energy analysis supporting the plan's model standards, and public comment.

The committee has also scheduled a meeting for February 15-16 in Helena to continue its study of the plan's model conservation standards. February agenda topics tentatively include areas of controversy or unresolved issues concerning the model standards, BPA programs to support the adoption and implementation of the standards, and implementation of the standards in Montana.

The resource option concept is designed to allow the region to place new electricity resources "on the shelf" so they can meet load growth in a quicker, more flexible manner. The committee will study resource options in relation to the Montana Major Facility Siting Act.

The committee recognizes the potential controversy surrounding these issues. It plans meetings in several Montana communities to allow extensive public involvement before it develops appropriate legislation for the next legislative session.

For more information, please contact members of the committee (Senators Dave Fuller, Gary Lee, John Mohar, Del Gage; Representatives Dan Harrington, Chairman, Harrison Fagg, Mike Kadas, Carl Seifert) or the office of the Northwest Power Planning Council, Capitol Station, Helena, MT 59620, 444-3952.

FWP Report on Pesticides

The Montana Department of Fish, Wildlife and Parks has called for an immediate ban on the manufacture and use of the pesticides endrin and heptachlor. The department based its recommendation on the widespread contamination of wildlife by these pesticides, the threats to human health from consumption of contaminated wildlife, and the availability of less toxic and less persistent chemical alternatives for control of agricultural pests.

The department offered nine other specific pesticide management recommendations, supporting additional research into alternative methods of pest control, periodic testing of pesticide levels in Montana wildlife, continuation of warnings about potential health hazards from consumption of game birds, and establishment of a tri-agency working group (departments of Fish, Wildlife and Parks, Agriculture, and Health and Environmental Sciences) to evaluate pesticide management in Montana.

The recommendations are included in a 230-page report, titled "Relationships of Endrin and Other Chlorinated Hydrocarbon Compounds to Wildlife in Montana, 1981-1982." The report, issued in late 1983, is a compilation and analysis of two years of data from the monitoring of pesticide residues in resident and migratory wildlife collected in Montana.

Endrin contamination became a public issue during the spring of 1981, when an estimated 100,000 acres of winter wheat in Montana was aerially sprayed with endrin to control an infestation of army and pale western cutworms. Sampling of wildlife for endrin following this treatment revealed widespread pesticide contamination with 55 percent of all sharptail grouse sampled containing endrin. Twenty-seven percent of the contaminated sharptails sampled exceeded federally permissible endrin levels for domestic meats. Endrin residues were also found in waterfowl, nongame birds, and big game mammals.

Heptachlor-treated cereal grains were seeded on an estimated 177,000 acres in Montana during 1981 to protect against damage from wireworms. Subsequent analysis revealed that one-fourth of the upland game birds and over half of the waterfowl tested had detectable heptachlor residues. The FWP report states that heptachlor concentrations are believed to be sufficiently high to kill raptors and to impair reproduction in waterfowl and small mammals.

According to FWP, the substitution of lindane for heptachlor and permethrin for endrin would provide crop protection with less danger to wildlife and human health. These substitute compounds, also chlorinated hydrocarbons, are less toxic and less persistent that endrin and heptachlor.

In addition to endrin and heptachlor, resident wildlife species had detectable levels of dieldrin, DDT, PCBs, mirex, lindane, and hexachlorobenzene. This finding indicates some Montana contribution for all of these chemicals -- even though DDT has been banned nationwide since

1972 and dieldrin since 1974. The FWP report also indicates that migratory wildlife are probably picking up much of their pesticide load outside of Montana.

The FWP report indicates that pesticide contamination has cost the department $116,000 in lost revenues from reduced license sales and $262,000 in sportsmen's money to fund pesticide studies. Additionally, the department estimates that private enterprises lost $8 million in gross revenues because of the reduction in hunter days caused by endrin contamination.

The Department of Agriculture released a draft environmental impact statement on endrin in July of 1983. The DOA document recommended suspending the sale and use of endrin, contingent on the federal approval of substitute pesticides. The proposed rule would allow two years for owners of endrin supplies to use them subject to strict reporting and application requirements.

Copies of the pesticide monitoring report are available from the Montana Department of Fish, Wildlife and Parks, Capitol Station, Helena, MT 59620.

Groundwater Council

Representatives of federal and state agencies met with the Groundwater Advisory Council on November 17 and 18 to discuss groundwater management in Montana. The Groundwater Advisory Council, chaired by Rep. Gay Holliday, is working to develop recommendations for a groundwater management strategy that will protect water quality, encourage development of groundwater resources and allow conjunctive management of surface and groundwater resources.

Invited federal representatives at the meeting included Mike Whittington, Bureau of Land Management; Billy Hicks, Forest Service; Joe Moreland, Geological Survey; and Richard Montgomery, Environmental Protection Agency. The participants identified a number of concerns. The following items were of particular importance:

-- Funding - In the past, federal funds from several agencies have supported cooperative efforts with the state to identify impacts on groundwater in eastern Montana oil and gas fields and coal development regions. A substantial decline in available federal funds will limit data collection unless state funding is increased. There is a growing competition for the limited federal funds available for groundwater investigations. Federal budget planning requires a lead time of two to five years.

-- Water Resource Development - Montana has not fully developed its groundwater resources for various beneficial uses, such as irrigation, energy, and alleviation of water shortages in some areas.

-- Definition of Resources - Montana does not have enough information about its groundwater resources to implement development and protection strategies. A systematic approach to groundwater inventory is needed.

-- Groundwater Quality - Montana needs adequate information to identify adverse impacts on groundwater quality.

-- Coordination - There are no formal mechanisms for sharing information among agencies.

State agency representatives at the meeting emphasized the need for current data on groundwater resources. Although state statutes provide for protection of groundwater resources, the data necessary to make informed decisions is often not available.

After hearing presentations on the issues, the Groundwater Advisory Council assigned four major topics for subcommittee consideration: (1) possible integrated management strategies; (2) interagency coordination; (3) water quality concerns; and (4) data collection and management. Each of the subcommittees is expected to develop recommendations for the council to consider during a meeting in March.

Biological Weed Controls Studied

Biological weed control is showing excellent promise as an effective, self-perpetuating and environmentally sound method of reducing noxious weeds in Montana, according to Dr. Jim Story, research scientist at the Western Agricultural Research Center in Corvallis, Montana.

Dr. Story discussed the current research on biological weed control and the status of control efforts in a December 15 presentation to the EQC Toxic Substances Subcommittee, chaired by Rep. Lory.

Dr. Story defined biological weed control as "...the deliberate use of natural enemies to reduce weed densities to tolerable levels." This technique generally involves the introduction of one or more insect species that feed on the roots, leaves, stems, or seed head of the target weed. Most of the control insects are initially obtained from Europe or Asia, the native range of the noxious weeds that have been inadvertently introduced to Montana. Biological control efforts can also utilize nematodes and natural pathogens, such as fungi, viruses, and bacteria.

Both the control insects and the target weeds are studied for several years at the Research Center before the insect is released, Dr. Story noted. Such caution is necessary to ensure that beneficial plants will not be attacked.

Successful biological control efforts have been initiated on a number of Montana weed species that have proven highly resistant to chemical control. A species of seed head weevil has controlled musk thistle throughout the Gallatin Valley; additionally, control insects have been very successful in reducing the densities of spotted knapweed and leafy spurge, the two most widespread and economically damaging rangeland weeds in Montana. The spurge and knapweed control insects have expanded only slowly beyond their areas of introduction, but researchers are confident that these insects will become established in the next few decades. Biological control efforts have also begun on diffuse Knapweed, Dalmatian toadflax, and Canada thistle.

Dr. Story noted a number of advantages of biological weed control. Once established, biological control agents are self-perpetuating and thus provide permanent relief. Biological control is relatively inexpensive, with an initial research outlay of about $2 million per insect and then no additional costs after establishment. Biological control is selective to target species and environmentally sound, unlike chemical efforts which can kill nontarget plants and leave toxic residues in the environment.

Dr. Story also noted some of the limitations of biological control, including the 10-15 year time for biological control agents to become established, the limited usefulness of biocontrol on crop lands (where the host weeds are removed at harvest and thus the control insects are unable to complete their life cycles), and the inability of biological agents to eradicate weed species (control agents can at best reduce weed densities).

The ability to obtain sufficient numbers of control insects has been one of the major limiting factors to the success of biological control efforts. The staff of the Western Agricultural Research Center has been working to "mass rear" the control insect species, in addition to collecting insects from sites where populations are well established. Dr. Story noted that scientists recommend the introduction of four different species of control agents for each weed to be controlled.

Although public concern over weeds has been late in coming and many species are already well established, Dr. Story expressed confidence that biological agents will become effective tools for controlling rangeland weeds over wide areas of Montana. He added that biological control will not provide the total answer to the weed problem, and that integrated weed management, including biological control, cultural treatments, proper use of chemicals, and prevention of introductions, offer the best hope for solving Montana's weed problems.

Water Marketing Update

The Select Committee on Water Marketing, chaired by Senator Jean Turnage, met in Helena on December 2 to hear presentations on the topic of water availability and water management in the Missouri River Basin. Making presentations before the committee were Joseph Marcotte, Regional Director of the Bureau of Reclamation; Duane Sveum from the Missouri River Division, Corps of Engineers, Omaha, Nebraska; Carroll Hamon, Executive Director, Missouri Basin States Association, Omaha, Nebraska; and Gary Fritz, Administrator of the Water Resources Division, Montana Department of Natural Resources and Conservation.

Mr. Marcotte described the historical development of the Missouri River Basin, which led to the formation of the Pick-Sloan Missouri Basin Program authorized by Congress under the Flood Control Act of 1944. Under this comprehensive plan, Fort Peck Dam and five additional mainstem dams have been developed for flood control, navigation, hydropower, and irrigation.

Although the program has met many of the goals for navigation, hydropower generation, and flood control, only a fraction of the proposed irrigation and domestic needs have been met. Thus lower basin states have derived the major benefits while Montana and other upper basin states are concerned that irrigation and other water uses will not be developed. Lower basin states fear they may lose their benefits if irrigation and other consumptive uses in the upper basin are fully developed. Mr. Marcotte described some current efforts to develop the irrigation potential in the upper basin states.

Duane Sveum described how water in the mainstem reservoirs are manipulated to meet the primary needs of navigation, flood control, and hydropower production. The plan, based on historical and current data, is used to maximize benefits for the multiple water uses in the basin. The manipulation of the reservoirs requires coordination between the various dams on a daily basis.

Completing the discussion of the Missouri River Basin, Carroll Hamon gave an overview of how the various states have organized to utilize this shared resource. The Missouri Basin States Association was created by agreement among the ten governors of the Missouri River basin states to conduct studies and coordinate an information exchange. An important current effort is the Missouri River Basin Hydrology Study, which was funded by the federal government and the basin states. The study provides a data base describing water availability and uses in the ten state basin. A computerized water accounting system incorporating the data base is used to estimate the effects of using additional quantities of water in the future. Thus the system helps the states decide on water allocation and apportionment. The MBSA is continuing its efforts to test and evaluate this system.

Another important objective of the MBSA is to find ways to minimize conflict and resolve differences between the participating states. These differences have focused on the proposed use and sale of Missouri River water from the Oahe Reservoir in South Dakota to slurry coal to out-of-basin markets in the south. Some downstream states have filed suit to protest the sales, primarily because they are concerned that the water sales will set a precedent for sale and transfer of water out of the Missouri River basin. Hearings on these lawsuits will begin this February, but meanwhile the MBSA is working to minimize future conflicts.

A comprehensive report on water availability and water management was presented to the committee by Gary Fritz of DNRC. Fritz described how the Water Resources Division determines the quantity of water available in each stream drainage and how these data are used in establishing water rights and water allocation. Although significant questions remain regarding federal reserved water rights and water reservations, the state is making progress in its water adjudication program. In reviewing each major river basin in Montana, Fritz presented historical water data to show the availability of water and the likelihood of water shortages occurring.

In completing his presentation, Fritz presented an outline of a water protection strategy for Montana. A part of this involves the development and use of the water before it is all claimed by downstream interests. However, water development and expanded use will require additional storage. Finding the funding for the development of water projects is a primary problem to the strategy.

Clark Fork Permit

The water quality conditions of the Clark Fork River below Missoula have received renewed public attention in recent months. At the center of the controversy is the Champion International's Frenchtown Mill which discharges treated pulp mill waste into the river. A failure of the mill's rapid infiltration waste treatment basins has prompted a company request for a modified permit to allow year-round discharge of its waste effluent. The current permit allows discharge of stored wastes during high spring flows only.

After a review of the company's application and supporting documents, the Water Quality Bureau of the DHES issued a tentative modified permit and scheduled hearings in Missoula. The public response to the proposed permit modification has been very extensive, reflecting strong concern for the quality of the Clark Fork River and for the need for the jobs Champion provides.

The Environmental Quality Council questioned the adequacy of the PER (preliminary environmental review) prepared by the WQB for the proposed permit. The initial review failed to address some important environmental concerns and did not provide adequate support for its conclusion of no significant environmental impact. In response to the EQC concerns and public response, the Water Quality Bureau is preparing a revised PER and a more detailed review of the concerns expressed during the hearing comment period.

The EQC is continuing to monitor the Water Quality Bureau's activities on this important issue.

EIS Listing

LEAD AGENCY	PROJECT	DRAFT	FINAL
AG	Endrin Rules	7-83	Early 1984
DSL	Absaloka Westmoreland Mine, Extension, Big Horn County	Mid 1984	
DSL	Consolidation Coal CX Ranch Mine, Big Horn County	Fall 1984	
DSL	Montco Mine, Rosebud County	5-82	Spring 1984
DSL	Western Energy Rosebud Mine, Area D, Rosebud County	Summer 1984	
DSL	Wolf Mountain Mine, Big Horn County	Fall 1984	
DOE/BPA	Expanded Residential Weatherization Program	9-83	
DOE/BPA	Proposed Memo of Understanding: BPA/WAPA	10-83	
DOI/BLM	Billings Resource Area Management	10-83	11-83
DOI/BLM	Headwaters Resource Area Management	5-83	Expected Early 1984
ICC	Tongue River Railroad, Custer, Rosebud, and Powder River Counties	7-83	
DOT/DOH	Highway 12 Helena West, Lewis and Clark County	10-83	

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